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January 29, 2023

Dara Fairfield  
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Human Resources Operations Office, HROO (106A6)  
Workforce Management and Consulting (106A)  
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U.S. Department of Veterans Affairs  
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120 Southwest 6<sup>th</sup> Avenue  
Suite 102  
Topeka, KS., 66603

As per your request:  
Appendix A: Pamela and Charles Andrus, Marriage / License  
Certificate,  
July 27, 1985.  
Appendix B: VA forms completed: SF 3107, SF 3107-1, SF  
2818, W-4P (2023),  
and additionally:

Appendix C: U.S. Department of Veterans Affairs  
Commendations  
Appendix D: Result of Audit of DFAS

**Re: VA RSSO Case 286816**  
**NIAID Case #122786**

Dear Ms. Fairfield:

Thank you so very much for notifying me on January 11, 2023, of the need for me to submit additional documentation/VA forms regarding my retirement from the Veterans Health Administration (VHA) of the U.S. Department of Veterans affairs. As I told you over the phone at that time, I had submitted a tremendous amount of documentation (~14 lbs.) on September 24<sup>th</sup> 2022, (including cover letters and e-mails dated September 14, 2022<sup>Book 2: 1 - 11</sup>, August 24, 2022<sup>Book 2:13 - 32</sup>, July 29, 2022<sup>Book 2:33-100</sup>; and our Marriage Certificate via the U.S. Postal Service as Priority Mail to: the US Department of Veterans affairs (offices of the Secretary of the Department of Veterans Affairs [USPS tracking number: 9410 8036 9930 0153 7266 20],

the offices of the General Counsel (and DEAO) per the direction of Michael Hogan, J.D. in our phone conversation in the Spring of 2022 to copy all to the OGC [USPS tracking number: 9410 8036 9930 0153 7266 06]]; The National Institute of Allergy and Infectious Diseases as per the establishment of NIAID Case file #12276 [accessible to anyone under the FOIA] by Kara Harris MPH [USPS tracking number: 9410 8036 9930 0153 7286 24] at the direction of the Director, Anthony Fauci, M.D. [USPS tracking number: [9410 8036 9930 0153 7266 13]; and the U.S. Constitutional-responsible and accountable authority for the Executive Branch of the Federal Government, President Joseph Biden [USPS tracking number: 9410 8036 9930 0153 7265 90]; and a host of others.

As you emphasized several times that you could not find a copy of Pam (my wife) and my marriage certificate / license in the requested submission even though it was submitted to the VA RSSO on ~July 29, 2022, in my submission on September 24<sup>th</sup> 2022, and again today in my submission of the **paginated** version of the September 24<sup>th</sup> 2022 submission on page 100 of Book 2. Therefore, I will submit again with this electronic e-mail submission to you today another copy of our marriage certificate / license (Appendix I).

In our conversation over the phone a week ago, you also reiterated to me that if my file was not complete by January 31, 2023, the VA would close it on January 31<sup>st</sup> 2023, and turn it over to the Office of Personnel Management (OPM). As OPM is not a division of the VA but is the payroll site for all Federal employee retirees, you explained that my entire case file would have to be completely reconstituted so as to **appeal my underpayment from August 2016 to November 2022 by the VA** so as to appropriately calculate my pension even though I have contested my Grade and Rank since returning to the VA >6 years ago.<sup>Book 2</sup> I responded to you with my interpretation of that of which you had just stated as a “ drop dead date” for the VA to *wash its hands* of my retirement package and dump it on another Federal agency(ies) without the VA reviewing and adjudicating my retirement calculations as Book 2 documents in much detail as possible of my underpayment of salary over the last six years (as I returned to the VHA at the St. Louis VAMC in August 2016 as a Grade 15, Step 7 physician when I was previously a Grade 15, Step 10 physician from 1994 - 2002.

**To demonstrate my due-diligence**, I submitted over the last six months the documentation that is complete on my part consistently expecting the VA to correct my salary of the last 6 years—**BUT** it never happened. Knowing that my very existence in the VA between 1982 and 2002 was reportedly lost and non-verifiable with the reported misplacement of my official hard copy OPF from April 1982 through January 2002, I essentially became **an unperson in the VA and the Federal Government. (An audit of the U.S. Department of Defense’s Dfas would have revealed**

**my previous VA service dates but, as far as I know, that was never performed prior to my announcing my retirement. See Appendix D)**

When I returned in August of 2016, my status was that of a “new hire—without any prior VA experience” as a physician grade 15 step 7 and not that of a physician grade 15 step 10 of which I separated from the VA in January of 2002. This was a *de facto* demotion and retaliation by the VA in violation of my previous submission of EEOC No. 210-A3-6145X that was debated on March 3, 2004 in *Andrus v VA*, U.S. Court of Appeals for the Federal Circuit (USCAFC), Docket case: 03-3162.<sup>Book 2: 315</sup> (The SF-50 in Book 2 documenting my initial advancement to a physician, Grade 15, Step 10 was my SF 50 of 07-22-94<sup>Book 2:268</sup> while I was the Division Chief of Unit II (SLU) General Surgery in Book 2, page 263 (summary of SF 50s) and the SF 50 of 07-22-94<sup>Book 2: 268</sup>).

You will see in the documentation (now with pageation of Book 2) that I will again send to the VA, as my attempt to reconstruct my hard-copy OPF from April 1982 to January 2002 failed as is stated by the St. Louis VAMC HR specialist on November 15, 2016:

“...Kevin—just got back my order form from the national personnel records center—they have no record for Dr. Charles Andrus.” in Book 2, page 217.

As such as per 38 USC Sec. 7431, CH 74-Personnel, page 958, (Can be found in Book 2, page 194), I am now >25 years of service (See also Appendix C) and thus should be classified regarding rate of base pay Grade 15, Step 13. This clarification of base pay rate is extremely important as this confirms underpayment from August 2016 to the present. A Federal Pension is calculated by an averaging of the three highest paid contiguous years and as I have been underpaid since 2016 as I was initially classified as a “new hire” by the St. Louis VAMC HR and they could not locate my hard-copy OPF from 1982 to 2016. Any pension calculation using the last 36 months of my existence in the VHA at the St. Louis VAMC is a gross undercalculation.

Also, because my hardcopy OPF from 1982 to 2002 was reportedly misplaced (can’t be found), the VA SCD on my paychecks for most of the last six was not that which was finally reported on my the last several months of service: 10/25/1997. Also, since my hard-copy opf of 1982-2002, could not be found over the last 6 years, the VA has ignored my accrued 1185.25 hours sick leave from 1986 to 2002. In the recent SF 3107-1 you sent me complete, **box 7** contains a corrected SCD of 10/25/1996 which I assume corrects for my total accrued sick leave towards my pension calculation from 1986 to the present of approximately 1 year (+25 years)—thank you for correcting this.

On January 12, 2023, I called you in response to your voicemail recording on my wife, Pam's, cell phone:

Hi Pamela, this is Dara Fairfield with the Department of Veteran Affairs. I was calling -have been trying to get a hold of Charles regarding his retirement. We are still missing all of his paperwork we never received that back when he had changed his retirement date. So, I am desperately trying to get in touch with him. If you can please have him give me a call back at xxx-xxx-1553, I am headed out for the day; but I will be back tomorrow starting at 6am central standard time, so I look forward to hearing from you guys. Just want to make sure we get him taken care of with his retirement so he can start getting paid. So talk to you guys soon--thank you.

Ms. Fairfield, you first contacted me by e-mail on July 5, 2022, with .pdf attachments that were introductory to the VA retirement system. On January 9, 2023, you sent me an e-mail with additional forms I will be sending back today to you filled-out: 3107.pdf, 2818.pdf, W-4P.pdf, and 3107-1.pdf (3107-2.pdf is not applicable as we discussed last week). [I called you with my wife's SSN as you stated that you already had my SSN].

In our phone conversation last week, you corrected my interpretation of your statement that if all was not completed by January 31, 2023, VA RSSO would close my file turning over to OPM which would have necessitated the initiation of a whole new discovery process.—I interpreted your statement and verbalized to you that, no matter what, on January 31, 2023, if the VA RSSO and the U.S. Department of Veterans Affairs close my case, then they would be “washing their hands of me (after officially >25 years of service)” as your statement implied **my “drop dead date” with the VA**. You responded that: Yes, we have to close your case on January 31, 2023, and then OPM will have to reconstruct everything. In short, another agency of the Federal Government will have to do what the VA should have done over the last six years.

As I have discussed with you several previous times, the reason why the VA lost my paper-copy of my OPF from 1982 to 2002 is because I alleged that while I was the Chief of Surgery, Edward Hines, Jr. VAH, Maywood (Chicago's tertiary VA hospital), IL, the VISN 12 Director called for my firing without cause 12 times as related to me during my deposition by the VA OIG HR specialist in the preparation of the: COMBINED ASSESSMENT PROGRAM REVIEW, EDWARD HINES, JR. VA HOSPITAL, HINES, IL, Report No. 99-00173-18, November 22, 1999. [Please note that the OIG presented to my Hines VAH office in October 1999 requesting documentation of the staffing of the Hines VAH OR and the documentation from page 43 through 61 of the CAP report #99-00173-18 was my work summary of the OR directed to the Director of the Edward Hines, Jr. VAH and my name is un-REDACTED on page 44.] Not only is a **Constructive Discharge** a prohibitive personnel practice, as alleged in “*section 45 Remarks*” in the SF 50 of 01/19/2002, illegal; but an EEOC Complaint was

filed by me before the EEOC [EEOC No. 210-A3-6145X, Agency No. 200K-1886] and the MSPB resulting in the docketing by the U.S. Federal Court of Appeals for the Federal Circuit (USFCAFC) in **Andrus v VA**, Case# 03-3162 with Oral Arguments on 3/3/2004. The U.S. Court of Appeals for the Federal Circuit failed to rule *per curiam*, but resultant to *Andrus v VA*, the phrase: **Level 3: Attending Not Present, immediately available** has been changed over the last 20 years in VHA Handbook 1400.1. The URL of the VHA Handbook was changed by the VA to 1400.01 so that the changes would be difficult to legally discover. Most of all, Attending Surgeon supervision of residents in VA Operating Rooms no longer permits or condones Attending Surgeons staffing VA OR cases in physical absentia (Ghost Surgery). ONCE again, Ghost Surgery **is no longer permitted nor condoned by the Veterans Health Administration.**

**Andrus v VA**, USCAFC Case# 03-3162, was initiated through the U.S. MSPB and the U.S. EEOC processes and when I returned to the VA in August 2016, I suffered a *de facto* demotion from a Physician Grade 15, Step 10 to a Physician Grade 15, Step 7 as "The rate of base pay is the rate payable for:" a specific Step (38 USC Sec. 7431, CH 74-Personnel, page 958). I allege that my *de facto* demotion in August 2016 (to Grade 15, Step 7) and all subsequent promotions to a Grade 15, Step 10 last August 2022, **are** wrong and resulted in an underpayment of my biweekly salary for the last 6+ years through the U.S. Department of Defense (DFAS) with full knowledge of individuals within the Veterans Health Administration of the U.S. Department of Veterans Affairs. I allege that listed above is consistent with a **8<sup>th</sup> possible EEOC discriminatory complaint** as I "...believe that I [you] have been discriminated against because of opposing a prohibited practice or participating in an equal employment opportunity matter..." Knowing that the VA pension is calculated by VA RSSO as the average of the highest 3-year continuous salaries, there is no way my pension can be calculated appropriately by VA RSSO until a legally U.S. Department of Veterans Affairs responsible / accountable **AUTHORITY** adjudicates my last 6 years salaries with a summation of legally appropriate Basic Pay and with my locality/market ADJ pay on my previous paychecks. Ms. Fairfield, since you conceded that you could not provide such adjudication, it would seem such a process is within the scope of our VA superiors, e.g.: the Under Secretary of Health, Veterans Health Administration, or the Secretary of the U.S. Department of Veterans Affairs. For the VA through the RSSO to dump my "closed-out file on January 31, 2023" to DFAS and then OPM without resolution of my appropriate pension based on corrected salaries according to 38 U.S.C. Sec. 7431, CH. 74-Personnel, 958, is unconscionable, probably a violation of Title VII of the Civil Rights Act (Title VII), and dereliction to duty and consistent with obstruction of justice by all involved in the case of **Andrus v VA**, USCAFC Case# 03-3162, in the VA, DOJ, and OSC.

In summary, this is my understanding of the calculations for adjudication of a correct Gross Monthly Pension allocation:

1. Total number of years: In my case 25 years + ~1 year for accrued sick leave from 1982 to 2022: **SCD of 10/25/1996.**
2. Calculation of FERS Proration factor from Part-time and Full-time service:

From my calculated proration by the Edward Hines, Jr. VAH HR: "FERS Part-Time Employee Data" in 2001 and my Full-Time for the last 6 years from:

- A. (1) FERS service credit: 18 years 8 months 23 days (18.72 years)  
(2) FERS Part-time PRORATION Factor 81.0%
- B. (1) FERS service credit: 6 years 3 months and 27 days. (6.3 years)  
(2) FERS Full-time PRORATION Factor 100.0%

Total: 25 years 0 months 20 days. (~25.05 years)

$$X = \frac{(81.0\% / 18.72) + (100\% * 6.3)}{25.05} = \mathbf{85.7\%}$$

3. As my years of service are >20 years, one will multiple by **1.1**
4. **Unfortunately, a VA authority should correct and adjudicate my salaries from August 2016 to the present based on correction of my Base salary in 2016 from the erroneous Grade 15, Step 7 to that which should have been in 2016 of Grade 15, Step 10 in continuation from 2002. Once the biweekly gross salaries from 2016 onward are recalculated regarding base salary, the last 3 years can be averaged and then:**

Averaged Adjusted Base Salary = Base salary + Location salary

Annual Pension Gross Salary should =  
Averaged Adjusted Base Salary \* proration of **85.7%**  
**\* 1.1**

Thus, Ms Fairfield, before the VA RSSO "closes my case" and transmits it to DFAS and OPM, **I plead with you that the above adjudication process and calculations should be completed by the VA before closing my case.** As the forms that are to be returned to you today by e-mail were brought to my attention on January 9, 2023, I would assume that the "Drop

Dead date" for the VA RSSO to close my **completed retirement package** is ~60 days from January 9, 2023 (~March 10, 2023). As per my previous submission methodology of September 24, 2022, all will be submitted through by U.S. Postal Service Priority Mail so it is trackable by the U.S. Postal Inspectors, and discoverable to the general U.S. public through a formal FOIA request of that which I will submit to the NIH NIAID case file #12276: this letter and its Appendices; a hard copy of Book 2, a hard copy of Book 3, and (to be sent later, a copy of Book 1) on a SDHC 16 GB card with all included so as to electronically searchable.

Ms Fairfield, I thank you very much for you past direction; but as you have informed me several times on the phone, you do not have the authority to adjudicate my Grade and Steps over the course of the last 6 years which, at present, are in error and thus an averaging over the highest three continuous years is impossible. As none of your supervisors have stepped up to the plate, I will continue to copy to the Office of General Counsel as per the directions of Michael Hogan, J.D. who previously was one of the members of the Office of VA General Counsel as the Designated Agency Ethics Officer (DAEO); to Secretary McDonough as he is the VA's chief authority; and to President Biden as he is the Head of the Executive Branch of the Federal Government as designated by the U.S. Constitution.

Please review in detail this letter and ask of someone of authority in the U.S. Department of Veterans Affairs to adjudicate my requested review of the last six years to get my Grade and Steps corrected so an appropriate continuous salary of the last 3 consecutive years can be averaged in the calculation of my pension by VA RSSO?

Thank you,

Charles H. Andrus, M.D., F.A.C.S.  
Former Physician and Surgeon, Veterans Health Administration  
U.S. Department of Veterans Affairs  
Former Professor of Surgery, Department of Surgery Saint Louis University  
SOM  
Former Professor of Surgery, Department of Surgery, Loyola University  
(Chicago) SOM  
Interviewee for the position of Under Secretary for Health, Veterans Health  
Administration,  
U.S. Department of Veterans Affairs on December 10, 1999, along  
with:  
Thomas Bowen, M.D., F.A.C.S. (MG, retired),  
Thomas Garthwaite, M.D.,  
Robert Petzel, M.D., and  
Robert Roswell, M.D.

Federal Whistle Blower in *Andrus v VA*, USCAFC Case #03-3162 with the concurrence and direction in 2001 of Micheal Staley, VA OIG, and James McManus, M.D., F.A.C.S., VHA Medical Inspector (U.S. Office of Special Counsel files: MA-00-1107 and DI- \_\_\_\_\_)



Cc:

Catherine Mitrano, J.D., and Michael R. Hogan, J.D.  
Office of General Counsel (26)  
Designated Agency Ethics Official (DAEO)  
810 Vermont Ave, N.W.  
Washington, D.C. 20420  
Phone: 202-360-2598  
**Re: NIH NIAID Case #12276**

Anthony S. Fauci, M.D.  
Director of the U.S. National Institute of Allergy and Infectious Diseases  
U.S. National Institutes of Health  
U.S. Department of Health & Human Services  
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Bethesda, MD 20892-9806  
Phone: 301-496-5717 (last varified July 2020)  
FAX: 301-402-3573 (last varified July 2020)  
**Re: NIH NIAID Case #12276**

The Honorable Denis McDonough  
Secretary, U.S. Department of Veterans Affairs  
810 Vermont Ave, NW  
Washington, D.C. 20420  
[Denis.McDough@va.gov](mailto:Denis.McDough@va.gov)  
**Re: NIH NIAID Case #12276**

Abigail Carlson, M.D.  
Centers for Diseases Control/DDID/NCEZID/DHQP/OD  
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**Re: NIH NIAID Case #12276**

Kara Harris, MPH  
Section Chief for Controlled Correspondence and Public Inquires  
Legislative Affairs and Correspondence Management Branch  
Office of Communications and Government Relations  
U.S. National Institute of Allergy and Infectious Diseases  
U.S. National Institutes of Health  
U.S. Department of Health & Human Services  
5601 Fishers Lane, MSC. 9806, Room 6F30  
Bethesda, MD 20892-9806  
[Kara.Harris@nih.hhs.gov](mailto:Kara.Harris@nih.hhs.gov)  
Phone: 240-627-3693  
**Re: NIH NIAID Case #12276**

**Index of Appendices: Tonight January 29, 2023, I will attach the following Appendices to the transmitted e-mail.:**

Appendix A: Pamela and Charles Andrus, Marriage / License Certificate,  
July 27, 1985.

Appendix B: VA forms completed: SF 3107, SF 3107-1, SF 2818, W-4P (2023),  
and additionally:

Appendix C: U.S. Department of Veterans Affairs  
Commendations

Appendix D: Result of Audit of DFAS

**Due to oversize, my final submission of Books 2 and 3 converted into a pdf format with pageation (Which I sent on 9/24/2022 without page numbers) will be mailed by USPS over the next several days to VA RSSO, VA General Counsel and Secretary McDonough, the NIAID, etc.**